

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**Division of Housing Policy Development**

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February 14, 2005

Mr. Howard Sword  
Community Development Director  
City of Brentwood  
104 Oak Street  
Brentwood, CA 94513

Dear Mr. Sword:

**RE: Review of the City of Brentwood's Adopted Housing Element**

Thank you for submitting the City of Brentwood's housing element adopted November 9, 2005 and received for review on November 16, 2004, along with draft revisions received on January 28, 2005. As you know, the Department is required to review adopted housing elements and report the findings to the locality pursuant to Government Code Section 65585(h). The Department's review was facilitated by meetings, conversations and technical assistance with Mr. Winston Rhodes, Senior Planner, since May 2004.

The City's efforts to develop a housing element that addresses local housing needs, including programs to provide priority building inspections and support non-profit housing sponsors are appreciated. The current adopted element addresses most of the statutory requirements of State housing element law (Article 10.6 of the Government Code) and has made substantial progress since the draft was submitted in July 2002. However, the revisions outlined below are still needed to bring the adopted element into compliance with the law.

1. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels, including land use controls and local processing and permit procedures (Section 65583(a)(4)).*

Land-Use Controls – While the adopted element has added Table 17a (page 2-58), this table should be revised to clearly demonstrate applicable development standards for each zoning district to identify and evaluate the impact of development standards on the cost and supply of housing. For example, Table 17a shows minimum lot size requirements ranging from 3,500 square feet to one acre but does not clearly indicate the applicable zones (i.e., does a minimum one acre lot size apply to R-3 or RE?).

Processing and Permit Procedures – While the element includes more discussion on planned development and design review, the element must still analyze processing procedures for all residential development, including single-family and multifamily uses. For example, the element should discuss the various procedures, whether ministerial or discretionary, for a multifamily development to be permitted in a multifamily zone.

2. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing (Section 65583(c)(1)).*

The element still does not demonstrate the adequacy or appropriateness of sites with the PD designation (PD-44 and PD-57 in particular) to accommodate the City's share of the regional housing need. For example, these two designations do not include specified development standards to facilitate development certainty and the PD-44 designation establishes a mid-point density range of only 13 units per acre. As the element does not demonstrate the adequacy of these zones to accommodate the City's share of the regional housing need for lower-income households, there appears to be a site capacity shortfall of approximately 458 units. Therefore, the element must include a program with specific commitment to address its shortfall of sites. Further, this program should provide sufficient sites with zoning and development standards permitting multifamily by-right (Government Code Section 65583(c)(1)(A) and 65583.2(h)).

3. *Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities (Section 65583(c)(3)).*

As noted in findings under number 1, the element requires more analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to add programs to address and remove or mitigate any identified constraints.

Planned Development Zoning "Shells" – The August 28, 2002 review found that while the flexibility allowed in the planned development "shells" can promote a variety of benefits, development standards and conditions yet appear entirely discretionary. Our review indicated the element must describe how predictability of development standards and approvals is facilitated with use of the planned development "shells," including how this affects certainty and feasibility of residential development, including housing for lower-income households. The adopted element describes how development standards are "customized" on a project-specific basis and asserts rezones are not needed because permitted uses and development standards are created through legislative amendment to the planned development "shells". While this process reportedly is

historically accepted by the development community, the analysis does not demonstrate predictability or certainty in the planned development process. There apparently are no base or default development standards or some range of acceptable development standards and, the need for a legislative amendment to a planned development zone to initiate permitted uses and development standards does not provide certainty. As a result, the element should include a program to remove or mitigate the planned development legislative amendment requirement as a constraint to housing development.

Mid-point Density Requirements - The August 2002 review found the element should analyze mid-point density requirements (requiring amenities in order to exceed the mid-point of the general plan density range) for cost impacts and the City's ability to maximize its land resources. In response, the adopted element demonstrates that development occurs below the mid-point and above the mid-point (pages 2-45 and 2-46). However, the element still does not address the impacts of a mid-point requirement on development costs and the City's ability to maximize its land resources. The element should either include a more detailed analysis to address the August 2002 findings or should include a program to remove or mitigate the impacts of the mid-point density range.

4. *The housing program shall promote equal housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin color, familial status or disability (Section 65583(c)(5)).*

The element has not been revised to address requirement. Please see August 28, 2002 review.

The Department acknowledges receipt of additional proposed revisions on February 8 and 10, 2005. While the draft amendments appear to represent significant revisions to address the remaining statutory requirements, the proposals were not submitted in sufficient time to allow adequate evaluation prior to the end of the statutory review period for the adopted element. The Department will expedite its review of the proposed draft revisions and remains willing to meet again in either Brentwood or Sacramento to facilitate the City's efforts to bring its element into compliance. To discuss the expedited review schedule and if you have any additional questions, please feel free to contact Paul McDougall, of our staff, at (916) 323-3177.

The hard work and dedication of Mr. Rhodes and Ms. Heidi Kline, Planning Manager throughout the review process is greatly appreciated. The Department looks forward to continuing its partnership with the City and remains committed to expeditiously assisting Brentwood in addressing the remaining statutory requirements.

In accordance with their requests pursuant to the Public Records Act, we are forwarding a copy of this letter to the individuals listed below.

Sincerely,



Cathy E. Creswell  
Deputy Director

Enclosure

cc: Winston Rhodes, Senior Planner, City of Brentwood  
Janet Stone, Greenbuilt Alliance  
Oliba Cardona, Contra Costa Interfaith Sponsoring Committee  
Mark Stivers, Senate Committee on Transportation & Housing  
Suzanne Ambrose, Supervising Deputy Attorney General, AG's Office  
Terry Roberts, Governor's Office of Planning and Research  
Nick Cammarota, California Building Industry Association  
Marcia Salkin, California Association of Realtors  
Marc Brown, California Rural Legal Assistance Foundation  
Rob Weiner, California Coalition for Rural Housing  
John Douglas, AICP, Civic Solutions  
Deanna Kitamura, Western Center on Law and Poverty  
S. Lynn Martinez, Western Center on Law and Poverty  
Alexander Abbe, Law Firm of Richards, Watson & Gershon  
Michael G. Colantuono, Colantuono, Levin & Rozell, APC  
Ilene J. Jacobs, California Rural Legal Assistance, Inc.  
Richard Marcantonio, Public Advocates  
David Booher, California Housing Council  
Sue Hestor, Attorney at Law  
Martin R. Engelmann, P.E., Contra Costa Transportation Authority  
Paul Campos, Home Builders Assoc. of Northern California  
Shannon Dodge, Non-Profit Housing Association of Northern California  
Eve Bach, Arc Ecology  
Allison Brooks, Livable Communities Initiative  
Charlie Carson, Home Builders Association – Northern Division

Thank you for your letter sent February 8, 2005 including the proposals, with which, the City intends to revise its element. We appreciate your hard work in developing these proposals. They underscore the City's commitment to address housing needs and appear to address the above statutory requirements. However, the proposals cannot be considered as part of this review because we do not have sufficient time to review them and they do not appear to be actual revisions to the element. For example, instead of a proposal describing that the City intends to add a program for rezoning sites, Brentwood should submit the actual implementation action to rezone sites that will be included in the element.

The element identifies sites in four zones with appropriate designations (allowing up to 20 or 30 units per acre) to accommodate Brentwood's share of lower income housing need (page 2-47 and 2-48): sites in the R-3 zone (allowing 20 units per acre), PD-44 (allowing 20 units per acre), PD-49 (allowing 30 units per acre) and PD-57 (allowing 20 units per acre). However, two of these zones, PD-44 and PD-57 do not have development standards (page 2-56) and with a mid-point requirement of 13 units per acre, PD-44 does not demonstrate densities appropriate to encourage and facilitate multifamily development for lower income households. Therefore, PD-44 and PD-57 are not counted toward your lower income need. In sum, the City has a site capacity for 546 units (R-3 and PD-49) in zones with development standards appropriate to accommodate lower income households (pages 2-47 and 2-48) compared to Brentwood's 1,004 remaining need for lower income households. As a result, the element must include a program with specific commitment to address its shortfall of sites. Further, this program should provide sufficient sites with zoning and development standards permitting multifamily by right (Government Code Section 65583(c)(1)(A) and 65583.2(h)).